

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Corey Edward Fisherman,

Civil No. 17-3766 (DWF/TNL)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Robert Schaefer, *C. Officer*,

Defendant.

This matter is before the Court upon Plaintiff Corey Edward Fisherman's ("Plaintiff") objections (Doc. No. 24) to Magistrate Judge Tony N. Leung's January 16, 2018 Report and Recommendation (Doc. No. 23) insofar as it recommends that Defendant Robert Schaefer's Motion for Summary Judgment be granted, this matter be dismissed with prejudice, and judgment be entered accordingly. Defendant filed a response to Plaintiff's objections on March 1, 2019. (Doc. No. 25.)

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections. In the Report and Recommendation, the Magistrate Judge concluded that Plaintiff's claim under 42 U.S.C. § 1983 against Corrections Officer Robert Schaefer fails because Plaintiff's claim is against Defendant in his official capacity and nothing in the record shows that Plaintiff's rights were deprived on the basis of a Ramsey County policy or custom. The Magistrate Judge further explained that, even if Plaintiff properly filed suit against Defendant in his individual capacity, facts deemed

admitted by operation of Federal Rules of Civil Procedure 36 and 56 are fatal to Plaintiff's claim. These facts include admissions that Plaintiff never informed Defendant of his religious beliefs or that he required a vegan diet for religious reasons, that Defendant made and other staff made good-faith efforts to accommodate Plaintiff's request for vegan meals and that Plaintiff received vegan meals until staff learned Plaintiff was trading them for food that contained meat. In addition, the Magistrate Judge explained that Plaintiff's claim fails because the undisputed facts show that Defendant was not aware of Plaintiff's religious beliefs. Finally, the Magistrate Judge concluded that Plaintiff failed to state a valid equal protection claim because he failed to allege that Defendant treated inmates of other religions or races differently.

Plaintiff objects to the Report and Recommendation with a single sentence. (Doc. No. 24.) Plaintiff's objections are not supported by any legal argument, authority, or recitation of fact issues that would preclude summary judgment. This alone would constitute a waiver of the right to have the Court consider the objection. Even so, after carefully considering Plaintiff's objections, the Court finds no reason to depart from the Magistrate Judge's recommendation, which is both factually and legally correct. Based on the Court's *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b), and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Corey Edward Fisherman's objections (Doc. No. [24]) to Magistrate Judge Tony N. Leung's January 16, 2019 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Tony N. Leung's January 16, 2019 Report and Recommendation (Doc. No. [23]) is **ADOPTED**.

3. Defendant Robert Schaefer's Motion for Summary Judgment (Doc. No. [16]) is **GRANTED**.

4. This matter is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 7, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge